

April 22, 2022

**VIA ECF**

The Honorable Lorna G. Schofield  
United States District Court for the Southern District of New York  
40 Foley Square  
New York, NY 10007

*Catherine McKoy, et al. v. Trump Corp., et al., 1:18-cv-9936 (LGS)*

Dear Judge Schofield:

Pursuant to the Court's January 18, 2022 Fifth Amended Case Management Plan (Doc. No. 357), the parties write to update the Court on the status of the above-referenced action since the parties last filed a periodic joint status update letter on March 25, 2022 (Doc. No. 375).

**Party written discovery.** As previously reported, on February 23, 2022, Plaintiff served their Second Set of Interrogatories, which generally asked Defendants to identify any diligence that was done in connection with various representations about ACN, and their Second Set of Requests for Admission, which included a single request for admission to confirm a representation from Defendants' counsel that Defendants had no policies or procedures that applied to their promotion of ACN. Defendants served their responses and objections on March 25, 2022. Plaintiffs responded by letter on April 7, 2022, confirming Plaintiffs' understanding of Defendants' responses and of the state of the record, and reserving certain rights.

On March 8, 2022, Defendants served their Fourth Set of Requests for Production to Plaintiffs, including 48 separate document requests. On March 14, 2022, Defendants served their Fifth Set of Requests for Production to Plaintiffs, including 17 additional document requests. Plaintiffs served their responses and objections on April 7, 2022 and April 14, 2022, respectively, which Defendants are reviewing. On April 21, 2022, Plaintiffs made productions of 6,576 documents to Defendants, pursuant to their responses and objections.

On April 8, 2022, Plaintiffs filed a pre-motion letter concerning certain categories of documents that Defendants have refused to search for or produce (Doc. No. 387). Defendants filed a response on April 15 (Doc No. 394).

**Party and party-related depositions.** The parties previously scheduled the depositions of three of the Plaintiffs for April 27, 2022, May 17, 2022, and June 14, 2022, respectively; however, Defendants state that, considering the document production made by Plaintiffs yesterday, which Defendants need to review, the earlier dates may no longer be feasible. After productive meet-and-confer discussions, Defendants have agreed to take the April 27 and May 17 depositions in New York and to take the June 14 deposition remotely. In light of the parties' pending document discovery dispute (Doc. No. 384), as well as ongoing non-party discovery (summarized below), the parties are continuing to confer about dates (and locations) for the depositions of Defendants.

As previously reported, on March 15, 2022, Plaintiffs served a revised Rule 30(b)(6) deposition notice on The Trump Corporation (having previously served a Rule 30(b)(6) notice in March 2020). On April 11, 2022, Defendants served objections to the notice. The meet-and-confer process is ongoing.

On April 8, 2022, Plaintiffs filed a pre-motion letter seeking the Court’s permission to take up to 25 factual depositions (Doc. No. 384). Defendants filed a response on April 15, 2022 (Doc. No. 393).

**Plaintiffs’ nonparty discovery efforts.** Plaintiffs provide the following update on their ongoing correspondence and meet-and-confers with nonparties to resolve outstanding discovery issues. (See Doc. Nos. 232, 260, 265, 273, 396.) Defendants state that they generally have no knowledge as to the update because Plaintiffs have conducted such nonparty correspondence and meet-and-confers without Defendants’ involvement.

*First*, on April 15, 2022, Plaintiffs filed a letter updating the Court concerning the status of discovery sought from non-party American Communications Network (“ACN”) (Doc. No. 397), and identifying certain disputes relating thereto. ACN’s response was filed today (Doc. No. 403). In addition, ACN has confirmed it will accept service of a Rule 30(b)(6) notice, which Plaintiffs expect to serve next week. As reported in Plaintiffs’ April 15, 2022 letter, Plaintiffs also have served deposition subpoenas on ACN’s four co-founders.

Relatedly, ACN commenced arbitrations against each of the Plaintiffs on April 5, 2022. Plaintiffs notified the Court of these arbitrations immediately upon receiving notice of them (by FedEx) on April 12, 2022 (Doc. No. 390). Pursuant to the Court’s order (Doc. No. 391), on April 18, 2022, ACN filed a response to Plaintiffs’ letter.

*Second*, as previously reported, Plaintiffs have completed their on-site review of unaired footage from two episodes of *The Celebrity Apprentice*, and have designated certain footage (under 50% of the total footage) that Plaintiffs believe is relevant for copying, with Plaintiffs bearing the reasonable costs. Nonparties Metro-Goldwyn-Mayer Studios Inc. and JMBP, LLC (together, the “MGM Entities”) have copied and provided in full the media assets designated by Plaintiffs during the initial phase of their review, and Plaintiffs have produced those media assets to Defendants. Plaintiffs understand that MGM is engaged in the process of copying the media assets designated by Plaintiffs during the second phase of review, estimates that such copying should be completed in May, and is taking all reasonable steps to expedite that process.

*Third*, the nonparty Success-branded entities (“Success Entities”) made a production of 7,647 documents on April 8, 2022, which Plaintiffs have produced to Defendants.

*Fourth*, Plaintiffs have received significant numbers of documents in response to FOIL requests submitted to the New York Attorney General and the Manhattan District Attorney, and have provided those materials to Defendants.

The parties will submit their next joint status letter on May 20, 2022.

Respectfully submitted,

/s/ Roberta A. Kaplan

Roberta A. Kaplan

John C. Quinn

KAPLAN HECKER & FINK LLP  
350 Fifth Avenue, 63<sup>rd</sup> Floor  
New York, New York 10118  
Telephone: (212) 763-0883  
Facsimile: (212) 564-0883  
[rkaplan@kaplanhecker.com](mailto:rkaplan@kaplanhecker.com)  
[jquinn@kaplanhecker.com](mailto:jquinn@kaplanhecker.com)

Andrew G. Celli, Jr.  
Matthew D. Brinckerhoff  
O. Andrew F. Wilson  
David Berman  
Nick Bourland

EMERY CELLI BRINCKERHOFF ABADY WARD &  
MAAZEL LLP  
600 Fifth Avenue at Rockefeller Center  
New York, NY 10020  
Telephone: (212) 763-5000  
[acelli@ecbawm.com](mailto:acelli@ecbawm.com)  
[mbrinckerhoff@ecbawm.com](mailto:mbrinckerhoff@ecbawm.com)  
[awilson@ecbawm.com](mailto:awilson@ecbawm.com)  
[dberman@ecbawm.com](mailto:dberman@ecbawm.com)  
[nbourland@ecbawm.com](mailto:nbourland@ecbawm.com)

*Attorneys for Plaintiffs*

/s/ Peter T. Shapiro

Peter T. Shapiro

LEWIS BRISBOIS BISGAARD  
& SMITH LLP  
77 Water Street  
Suite 2100  
New York, NY 10005  
[Peter.shapiro@lewisbrisbois.com](mailto:Peter.shapiro@lewisbrisbois.com)

Clifford S. Robert  
Michael Farina

ROBERT & ROBERT PLLC  
526 RXR Plaza  
Uniondale, New York 11556  
Telephone: (516) 832-7000  
[crobert@robertlaw.com](mailto:crobert@robertlaw.com)  
[mfarina@robertlaw.com](mailto:mfarina@robertlaw.com)

*Attorneys for Defendants*

Alina Habba

HABBA MADAIO & ASSOCIATES LLP  
1430 U.S. Highway 206, Suite 240  
Bedminster, NJ 07921  
Telephone: (909) 869-1188  
[ahabba@habbalaw.com](mailto:ahabba@habbalaw.com)

*Attorneys for Defendant Donald J. Trump,  
in his personal capacity*